



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/426,573	10/25/1999	ALAN S. FISHER	20425.00510	2067

7590 01/09/2004

Andre' L Marais
Blakely Sokoloff Taylor & Zafman LLP
12400 Wilshire Boulevard
Seventh Fl
Los Angeles, CA 90025

EXAMINER

PATEL, JAGDISH

ART UNIT	PAPER NUMBER
----------	--------------

3624

DATE MAILED: 01/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/426,573

Applicant(s)

FISHER ET AL.

Examiner

JAGDISH N PATEL

Art Unit

3624

-- The MAILING DATE of this communication appears on the cover sheet with the corresponding address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 August 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 16-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 16-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 25,28 6) ☐ Other: _____

Art Unit: 3624

Paper No. 29

DETAILED ACTION

1. This communication is in response to request for continued examination filed 7/15/03 and subsequent amendment filed 8/18/03.

Continued Examination Under 37 CFR 1.114

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 7/15/03 has been entered.

Response to Amendment

3. Claims 15 and 20 have been amended. Currently claims 15-24 are pending and subject of examination.

Response to Arguments

4. Applicant's arguments with respect to claims 15-24 have been considered but are moot in view of the new ground(s) of rejection.

Art Unit: 3624

Paper No. 29

Statute Cited in Prior Action

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 103

6. Claims 15-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Linstead et al. (US Pat. 5,548,753) (Linstead).

Per claim 15 Linstead teaches an update processing and transmission system:

storage means, for storing status information relating to a commerce-related event; (col. 3 L 13-23, 4th dimension database, col. 7 L 15-47, the application program or externals..writes a record into the predetermined storage location or table upon occurrence of a predetermined database system, refer to the storage means (4th dimension database) as applied to communication of status of a purchase order as a commerce related event);

status information retrieval means for retrieving said status information from a common carrier information system via a network and storing the status in the storage means (col. 5 L 2-9, The AOCE portion 34..data and other information to be conveyed on the connecting network 10. ..includes a messaging portion for controlling receipt, transmission and formatting messages..., col. 7 L 15-47, ..the daemon process ..detects this record and in response automatically informs the supervisor ..);

Art Unit: 3624

Paper No. 29

message generation means for automatically generating a status message reflective of said status information stored in the storage means (col. 5 L 26-42, refer to "messaging portion 36" which produces an electronic mail message, note that the messaging portion is in communication with the 4D database 28 as shown in Fig. 2 and the status information is stored in the 4D database 28, col. 7 L 15-47 the daemon process ..detects this record and in response automatically informs the supervisor ..automatically prepares an electronic mail message to the preparer of the purchase order and any other users who may be interested);

message forwarding means for automatically forwarding said status message to a point where it may be accessed by an interested party (col. 5 L 26-42, .."the electronic mail message is then conveyed from the processing system 24 to the specified recipients." col. 7 L 15-47 the daemon process ..detects this record and in response automatically informs the supervisor ..automatically prepares an electronic mail message to the preparer of the purchase order and any other users who may be interested).

Linstead further doesn't expressly show that the status information retrieval means retrieves the status information from a common carrier information system.

However these differences are only found in the *nonfunctional descriptive material* and are not *functionally* involved in the functionality of the status information retrieval means, i.e. the

Art Unit: 3624

Paper No. 29

later would perform the retrieval of the status information regardless of the "information system" or the database system. Thus, the presence of term "common carrier information system" is interpreted as *non functional descriptive material* and it will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to have the Linstead system include a status information retrieval means for automatically retrieving the status information from any type of information system via the network because the type of system from which the information is retrieved does not functionally relate to the status information retrieval means and consequently patentably distinguish from the cited prior art as discussed.

Claims 16 and 21: Linstead fails to teach that the status information relates to shipment of an item. However, However these differences are only found in the nonfunctional descriptive material and are not functionally involved in the functionality of the update processing and transmission system. None of the elements of the system would perform any different whether the status information relates to shipment of item or any other event.

Please refer to claim 15 analysis for further treatment of non functional limitation of the claim.

Claims 17 and 22: said status information retrieved by said status information retrieval means is contained on a second computer

Art Unit: 3624

Paper No. 29

physically remote from a first computer on which said status information is stored and accessible via a network

(refer to Fig.1 which shows a server 12 having the status database "4D" and which is connected to a remote computer "PRIME" which accesses the status information via a network 20).

Claims 18 and 23. said status information is stored on a status information database within a first computer (refer to Fig. 1 and pertaining description at col. 3 and 4).

Claims 19 and 24: status information database for separately storing status information

(refer to Fig. 2 "4D database" which stores status information (occurrence of a predetermined event as explained at col. 3 L 13-30))

Conclusion

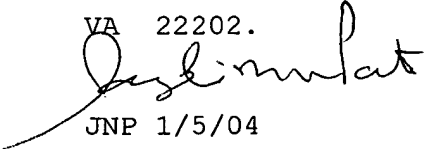
7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jagdish Patel whose telephone number is (703) 308-7837. The examiner can normally be reached Monday-Thursday from 8:00 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin, can be reached at (703) 308-1038. The fax number for Formal or Official faxes to Technology Center 3600 is (703) 305-7687. Draft faxes may be submitted directly to the examiner at (703) 746-5563.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-1113 or 308-1114. Address for hand delivery is 2451 Crystal Drive, Crystal Park 5, 7th Floor, Alexandria

VA 22202.


JNP 1/5/04